

1  
2  
3  
4  
5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT SEATTLE

8                   JACOB ANDREW NOVELOZO,

9                   Plaintiff,

10                  v.

11                  PORT OF SEATTLE, STEVE  
12                  METRUCK, KATIE GERARD,  
13                  THERESA CUMMINS, DAN  
14                  FITZGERALD, SANDERS MAYO,  
15                  GREG GAUTHIER, and DELMAS  
16                  WHITTIKER,

17                  Defendants.

18                   CASE NO. 2:25-cv-111-JNW

19                   ORDER

20                  This matter comes before the Court on Plaintiff Jacob Andrew Novelozo's  
21 motion for leave to amend. Dkt. No. 11. Proceeding pro se, Novelozo filed a  
22 complaint on January 16, 2025. Dkt. No. 1. A few days later, on January 22, 2025,  
23 Novelozo filed an Amended Complaint. Dkt. No. 4. Defendant Port of Seattle moved  
to dismiss the Amended Complaint for failure to state a claim. Dkt. No. 10. In  
response, Novelozo argues that the Court should defer ruling on the motion to  
dismiss and instead allow him to file a Second Amended Complaint because he  
inadvertently omitted several sections of his complaint when filing the First

1 Amended Complaint. Dkt. No. 11 at 2. Although the Port of Seattle maintains that  
 2 the First Amended Complaint fails to state a claim, it does not oppose Novelozo's  
 3 request for leave to file a Second Amended Complaint. Dkt. No. 13 at 1–2.

4 Courts "freely give leave [to amend a pleading] when justice so  
 5 requires." Fed. R. Civ. P. 15(a)(2). As a result, courts generally grant leave to amend  
 6 "[i]n the absence of any apparent or declared reason—such as undue delay, bad  
 7 faith or dilatory motive on the part of the movant, repeated failure to cure  
 8 deficiencies by amendments previously allowed, undue prejudice to the opposing  
 9 party by virtue of allowance of the amendment, futility of amendment,  
 10 etc. . . ." *Foman v. Davis*, 371 U.S. 178, 182 (1962). Prejudice carries the greatest  
 11 weight in the Court's analysis. See *Eminence Cap., LLC v. Aspeon, Inc.*, 316 F.3d  
 12 1048, 1052 (9th Cir. 2003). "Absent prejudice, or a strong showing of any of the  
 13 remaining *Foman* factors, there exists a *presumption* under Rule 15(a) in favor of  
 14 granting leave to amend." *Id.*

15 Here, there is no evidence of bad faith, and the Port of Seattle raises no claim  
 16 of prejudice. Thus, the Court finds no reason to deny Novelozo's request to file his  
 17 proposed Second Amended Complaint.

18 Generally, "an amended complaint supersedes the original complaint and  
 19 renders it without legal effect." *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 927 (9th Cir.  
 20 2012). "Courts often apply this rule to motions to dismiss a complaint that has since  
 21 been superseded and deny such motions as moot." *Dahlstrom v. Life Care Centers of*  
 22 *Am., Inc.*, No. 2:21-CV-01465-JHC, 2022 WL 7631419, at \*1 (W.D. Wash. Oct. 13,  
 23 2022) (quoting *Bisson v. Bank of Am., N.A.*, No. C12-0995-JLR, 2012 WL 5866309,

1 at \*1 (W.D. Wash. Nov. 16, 2012)). Because Novelozo's Second Amended Complaint  
2 will supersede the first, the Port of Seattle's motion to dismiss is now moot.

3 Accordingly, the Court GRANTS Novelozo's motion for leave to amend, Dkt.  
4 No. 11, and ORDERS him to file his proposed Second Amended Complaint within  
5 21 days of the date of this Order. The Court also STRIKES as moot the Port of  
6 Seattle's motion to dismiss. Dkt. No. 10. The Port of Seattle may refile its motion to  
7 dismiss, but only if it is directed at the Second Amended Complaint.

8

9

10 Dated this 9th day of April, 2025.

11   
12

13 Jamal N. Whitehead  
United States District Judge

14

15

16

17

18

19

20

21

22

23